



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1989-0007; FRL-9912-81-Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Partial Deletion of the Naval Industrial Reserve Ordnance Plant (NIROP) Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA Region 5 is publishing a direct final Notice of Deletion of Operable Unit 2 (OU2) of the Naval Industrial Reserve Ordnance Plant (NIROP) Superfund Site (Site), located in Fridley, Minnesota, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Minnesota, through the Minnesota Pollution Control Agency (MPCA), because EPA has determined that all appropriate response actions under CERCLA at the OU, identified herein, other than operation, maintenance, and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund.

EPA divided the NIROP Site into three portions, known as OUs, for ease of addressing its contaminant issues. This partial deletion pertains to OU2, which includes all the unsaturated soils within the legal boundaries of the NIROP Superfund Site exclusive of unsaturated soils underlying the former Plating Shop Area (see Site Map in the SEMS ID 446572 document listed in the Deletion Docket for OU2). The following areas will remain on the NPL and are not being

considered for deletion as part of this action: OU1 and OU3. OU1 includes the contaminated groundwater within and originating from the NIROP Superfund Site. OU3 includes all the unsaturated soils underlying the former Plating Shop Area.

DATES: This direct final partial deletion is effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days from the date of publication in the *Federal Register*]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1989-0007, by one of the following methods:

- <http://www.regulations.gov>: Follow on-line instructions for submitting comments.
- Email: Sheila Desai, Remedial Project Manager, at desai.sheila@epa.gov or Teresa Jones, Community Involvement Coordinator, at jones.teresa@epa.gov.
- Fax: Gladys Beard at (312) 697-2077.
- Mail: Sheila Desai, Remedial Project Manager, Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353-4150 or Teresa Jones, Community Involvement Coordinator, Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-0725 or toll free at 1-(800) 621-8431.
- Hand delivery: Teresa Jones, Community Involvement Coordinator, Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business

hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1989-0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at:

- Environmental Protection Agency Region 5

77 West Jackson Boulevard, Chicago, IL 60604

Phone: (312) 353-1063

Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

- The Navy has set up an online repository for the NIROP Superfund Site at the link below.

Please click on the Administrative Records link to see all the documents.

<http://go.usa.gov/DyNY>

- The Minnesota Pollution Control Agency also has an information repository for the NIROP Superfund Site at their offices: 520 Lafayette Road, St. Paul, MN 55155. Call 651-296-6300 or toll-free at 800-657-3864 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Sheila Desai, Remedial Project Manager, Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353-4150, desai.sheila@epa.gov.

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I. Introduction

EPA divided the NIROP Superfund Site into three portions, known as OUs, for ease of addressing its contaminant issues. EPA Region 5 is publishing this Direct Final Notice of Partial

Deletion of OU2 of the NIROP Superfund Site from the National Priorities List (NPL) and requests public comments on this action. OU2 includes all the unsaturated soils within the legal boundaries of the NIROP Superfund Site exclusive of unsaturated soils underlying the former Plating Shop Area (see Site Map in the SEMS ID 446572 document listed in the Deletion Docket for OU2). The following areas will remain on the NPL and are not being considered for deletion as part of this action: OU1 and OU3. OU1 includes the contaminated groundwater within and originating from the NIROP Superfund Site. OU3 includes all the unsaturated soils underlying the former Plating Shop Area. This partial deletion pertains to soil in OU2. The NPL constitutes Appendix B of 40 CFR part 300, which is the NCP, and which EPA promulgated pursuant to section 105 of CERCLA, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the NIROP Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, (60 FR 55466) on November 1, 1995. As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days after this publication in the *Federal Register*]. Along with this Direct Final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the “Proposed Rules” section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this partial deletion action,

EPA will publish a timely withdrawal of this Direct Final Notice of Partial Deletion before the effective date of the partial deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses OU2 of the NIROP Superfund Site and demonstrates how the deletion criteria are met for this OU. Section V discusses EPA's action to partially delete OU2 from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

1. Responsible parties or other persons have implemented all appropriate response actions required;
2. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
3. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of OU2 of the NIROP Superfund Site:

1. EPA consulted with the State of Minnesota prior to developing this Direct Final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published today in the “Proposed Rules” section of the Federal Register.
2. EPA has provided the State 30 working days for review of this direct final Notice of Partial Deletion and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the State, through the MPCA, has concurred on the partial deletion of the Site from the NPL.
3. Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in the Sun Focus, located in Fridley, Minnesota. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

4. EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories, i.e., at EPA's offices in Chicago and online.

5. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial Deletion before its effective date and will prepare a response to comments. EPA may continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting OU2 of the NIROP Superfund Site from the NPL. EPA believes it is appropriate to delete OU2 of the NIROP Superfund Site because all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed at OU2 and it is ready for redevelopment as a commercial and/or industrial property.

Site Background and History

The NIROP Superfund Site (CERCLIS ID MN3170022914) is located in the northern portion of the Minneapolis/St. Paul Metropolitan Area in an industrial/commercial area within

the limits of Fridley, Minnesota. The Site is not adjacent to any residential areas and is not located in an environmentally sensitive area nor near any known environmentally sensitive areas.

The Site is approximately 82.6 acres, most of which are covered with buildings or pavement. The U.S. Navy and/or its contractors produced advanced weapons systems at the facility beginning in 1940. The former NIROP facility is currently owned by Fridley Land, LLC which plans to redevelop the property for commercial and/or industrial use.

During the early 1970s, paint sludges and chlorinated solvents generated from ordnance manufacturing processes were disposed of in pits and trenches in the North 40 area which is the undeveloped area of the Site immediately north of the building. Contaminant sources in the North 40 area and beneath the NIROP building were not identified until December 1980, when MPCA received information concerning historical waste disposal practices at NIROP. In 1981, trichloroethylene (TCE) was discovered in on-site groundwater wells and in the City of Minneapolis' drinking water treatment plant intake pipe, located in the Mississippi River less than 1 mile downstream from the Site. In 1983, investigations identified pits and trenches in the North 40 area of the NIROP Site where drummed wastes had been disposed of. From November 1983 to March 1984, approximately 1,200 cubic yards of contaminated soil and 43 (55-gallon) drums were excavated and disposed of off-site.

The NIROP Superfund Site was proposed for inclusion on the NPL in July 1989 (54 FR 29820). The Site was placed on the NPL in November 1989 (54 FR 48184).

In March 1991, the Navy, EPA, and MPCA signed a Federal Facilities Agreement (FFA). Per the FFA, one purpose of that agreement was to "Identify alternatives for Remedial Action for Operable Units" which are appropriate for the Site prior to the implementation of Final Remedial Actions for the Site.

Remedial Investigation and Feasibility Study (RI/FS)

Based on the results of a geophysical investigation conducted in 1995, 23 (55-gallon) drums and 12 smaller containers were found in the North 40 area of the NIROP property. These drums were excavated during a removal action conducted from April to June of 1996. In 1996, during a sampling event of OU2 soils, in the vicinity of a previously unexcavated area near the North 40 area, free liquids were encountered which resulted in an additional removal action. A total of 31 (55-gallon) drums were discovered and subsequently sampled and removed for off-site disposal. In addition, several empty and crushed drums were also discovered and removed with other contaminated debris. Volatile organic compound contamination was reported in subsurface soils.

A risk assessment for OU2 was conducted in 1996. In a revision of that risk assessment, it was determined that in one sub-area of OU2, risk was inordinately influenced by one single data point. Therefore, during the summer of 2002, the Navy conducted a time-critical removal action to remove approximately 35 cubic yards of soil around this OU2 subarea with an elevated contaminant concentration. This removal was completed in June 2002, and addressed the last known location where there were unacceptable contaminant risks in near surface soils.

Record of Decision (ROD) Findings

The Remedial Action Objectives (RAOs) were (1) to prevent unacceptable risks due to residential or other unrestricted exposures to contaminated soils at the site and (2) to prevent unacceptable risks to industrial or construction workers due to exposures to contaminated soils at the site. The ROD for OU2 was jointly signed in September 2003 by the Navy, EPA and MPCA.

This is the only ROD for this site applicable to this partial deletion.

ROD for OU2 (September 2003)

The Selected Remedy to address unacceptable risk at OU2 of the NIROP Site is Land Use Controls (LUCs). The ROD called for LUCs to be maintained until EPA and MPCA determine that the concentrations of hazardous substances in the soils have been reduced to levels that allow for a less restrictive use of the Site.

The LUC Performance Objectives for OU2 are:

- To restrict the use of the property to industrial or restricted commercial use, until EPA and MPCA determine that concentrations of hazardous substances in the soils have been reduced to levels that allow for less restrictive use.
- To prohibit the disturbance of soil deeper than 3 feet below ground surface in those Designated Restricted Areas, which include Area 3 and Area 4 of OU2 (see Site Map in the SEMS ID 446572 document listed in the Deletion Docket for OU2) or the removal of any soils excavated in those areas from the facility without prior written approval of EPA and MPCA.

The property will be restricted to only industrial or restricted commercial uses. Industrial uses generally include, but are not limited to, the following types: public utility services, rail and freight services, raw storage facilities, refined material storage facilities, and manufacturing facilities engaged in the mechanical or chemical transformation of materials or substances into new products. Restricted commercial use is defined as use where access or occupancy by non-employees is less frequent or is restricted, including a wide variety of uses, ranging from non-public access and both outdoor and indoor activities (e.g., large scale warehouse operations), to limited public access and indoor worker activities (e.g., shopping mall, retail outlet, bank, dentist office). Strictly prohibited uses under either category shall include any child care or pre-school

facility, playground, any form of housing, churches, social centers, hospitals, elder care facilities or nursing homes.

Remedial Design (RD)

In August 2004, EPA concurred with the Navy's March 2004 Land Use Control Remedial Design (LUCRD) for OU2. The LUCRD specifies how the OU2 remedy will be implemented, maintained, and enforced should any breach of the remedy occur. It details the Navy's continuing responsibilities with respect to OU2, including the following: ensuring annual on-site physical inspections of OU2 are performed to confirm continued compliance with all LUC Performance Objectives; ensuring annual LUC Compliance Certifications are provided to EPA and MPCA that explain any deficiency, if found; conducting five-year reviews of the remedy as required by CERCLA and the NCP; notifying EPA and MPCA prior to any planned property conveyance; providing EPA and MPCA the opportunity to review the text of intended deed provisions; and notifying EPA and MPCA should site activities interfere with LUC effectiveness.

Response Activities/LUCs

The LUCs were incorporated into a Quitclaim Deed that was implemented on June 17, 2004, and executed by the property owner, the United States, and MPCA, and that acts as an environmental covenant describing the property restrictions. These deed restrictions run with the land such that any subsequent owner is bound by the same restrictions. The LUCs are to remain in place until EPA and MPCA determine that the concentrations of hazardous substances in the soils have been reduced to levels that allow for a less restrictive use.

Cleanup Goals

There is no cleanup associated with the remedy for OU2. Surface soils that posed unacceptable commercial/industrial risk levels were excavated and disposed of off-site during removal actions prior to implementation of the LUCs at the Site.

Operation and Maintenance (O&M)

The Navy, as the lead agency, is responsible for conducting routine inspections to ensure that LUCs are maintained and enforced. The Navy is responsible for reporting the results of the inspections and any breach of the LUCs to the MPCA and EPA.

Five-Year Review (FYR)

The Navy conducted a FYR at the Site in October 2013. The 2013 FYR concluded that the remedy at NIROP for OU2 is protective of human health and the environment. The FYR calls for the Navy to continue long-term stewardship to ensure that the LUCs are maintained.

Future Redevelopment

Plans are currently underway to redevelop the NIROP Site into a commercial office/warehouse complex. This planned redevelopment is consistent with the existing Land Use designation for the site. The three parties to the FFA concur that the delisting of OU2 from the NPL would facilitate this redevelopment effort and allow OU2 to become eligible for State and Federal Brownfields funding. Superfund NPL site property is not eligible for Federal Brownfields funding.

A developer has enrolled the NIROP site and certain adjacent land into MPCA's Voluntary Investigation and Cleanup (VIC) program. In conjunction with the redevelopment of the NIROP Superfund Site, any additional investigations will be conducted under the oversight and direction of MPCA's VIC program.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket, which EPA relied on for recommendation of the partial deletion of this Site from the NPL, are available to the public in the information repositories and at www.regulations.gov. Documents in the docket include maps which identify the specific parcels of land that are included in this document (i.e., OU2).

Determination that the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that portions of a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Minnesota, has determined that no further action is appropriate.

V. Deletion Action

EPA, with concurrence of the State of Minnesota through the MPCA, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. Therefore, EPA is deleting OU2 of the NIROP Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is proceeding without prior publication. This action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the

basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 12, 2014.

Susan Hedman,
Regional Administrator
Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 2 of Appendix B to part 300 is amended by revising the entry for “MN,” “Naval Industrial Reserve Ordnance Plant,” “Fridley” to read as follows:

Appendix B to Part 300--National Priorities List

Table 2—Federal Facilities Section

St		Site name			City/County		(Notes) ^(a)
*	*	*	*	*	*	*	
MN		Naval Industrial Reserve Ordnance Plant			Fridley		P
*	*	*	*	*	*	*	

Notes:

^(a)**A** = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

P= Sites with partial deletion(s).
